



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2023-0286]

RIN 1625-AA00

**Safety Zone; Shrewsbury River, S-32 Bridge, Boroughs of Rumson and Sea Bright, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone on the navigable waters of the Shrewsbury River, within a 100-yard radius of the center point of the S-32 Bridge on County Route 520 (Rumson Road), in the boroughs of Rumson and Sea Bright, New Jersey. The safety zone will include the East and West navigational channels and will temporarily close down a portion of the Shrewsbury River under the S-32 Bridge. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the bridge construction. When enforced, entry of vessels or persons into this zone during the enforcement periods is prohibited unless specifically authorized by the Captain of the Port New York or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2023-0286 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY**

**INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email MST1 Melanie Hughes, Waterways Management Division, U.S. Coast Guard; telephone 718-354-4352, email [melanie.a.hughes1@uscg.mil](mailto:melanie.a.hughes1@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port New York
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

On March 15, 2023, the Coast Guard received notification from WSP USA Inc. requesting to close a portion of the Shrewsbury River for the replacement of the S-32 Bridge on County Route 520 (Rumson Road) over the Shrewsbury River in the Boroughs of Rumson and Sea Bright, NJ; Federal Project No. STBGP-0520(300); NJDOT Job No. 6700352. Marine construction actions will consist of several activities, including but not limited: to erection of the bascule span structure steel; counterweights; exodermic deck panels; cast-in-place concrete closure pours; bridge concrete sidewalk; bridge steel railing; concrete deck overlay; and fender system. These activities are expected to affect navigation along the Shrewsbury River. Marine traffic will be maintained through the channel with partial channel closures for a majority of the duration of construction activities; however, full channel closure will be required for very limited periods. The Captain of the Port New York (COTP) has determined that potential hazards associated with the bridge construction would be a safety concern for anyone within a 100-yard radius of the center point of the bridge.

The purpose of this rulemaking is to protect personnel, vessels, and the marine environment from potential hazards created by the S-32 Bridge construction activities within a 100-yard radius. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

### **III. Discussion of Proposed Rule**

The COTP is proposing to establish a safety zone from September 25, 2023, through December 31, 2024, but will only be enforced during periods when heavy lift operations at the new bridge are in progress.

The first full channel closure is anticipated to take place from 6 a.m. on Monday, September 25, 2023, through 5 p.m. on Friday, September 29, 2023. The anticipated contingency date for this channel closure is from 6 am on Monday, October 2, 2023, through 5 p.m. on Friday, October 6, 2023. The second full channel closure is anticipated to take place from 6 a.m. on Monday, November 13, 2023, through 5 p.m. on Friday, November 17, 2023. The anticipated contingency date for this channel closure is from 6 am on Monday, November 20, 2023, through 5 p.m. on Monday, November 27, 2023. The Federal navigation channel closure is due to a 180-foot by 64-foot crane barge spudded down in the channel while conducting heavy lift operations each week at the new bridge.

The remainder of the bridge construction activities will partially close the channel allowing marine traffic to pass on either the east half or the west half of the channel. During these partial closures, the channel will be reduced to a width of 37 feet. The first partial channel closure is anticipated to take place from 12:00 a.m. on Monday, October 2, 2023, through 11:59 p.m. on Friday, November 10, 2023. The second partial channel closure is anticipated to take place from 12 a.m. on Monday, November 20, 2023, through 11:59 p.m. on Friday, March 8, 2024. The third partial channel closure is anticipated to take place from 12 a.m. on Monday, March 11, 2024, through 11:59 p.m.

on Thursday, May 16, 2024.

The Coast Guard is proposing this rule remain effective through December 31, 2024, in case the project is delayed due to unforeseen circumstances. The safety zone would cover all navigable waters of the Shrewsbury River within 100 yards of the center point of the S-32 Bridge. The duration of the zone is intended to ensure the safety of personnel, vessels and these navigable waters during the bridge construction. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Additional information concerning the Rumson-Sea Bright S-32 Bridge Project can be found at <https://www.rumsonseabrightbridge.com/>.

The regulatory text we are proposing appears at the end of this document.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes and Executive orders follows.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time-of-day of the safety zone. The safety zone is only in effect for navigable waters of the Shrewsbury River within a 100-yard radius of the center point of the S-32 Bridge and associated construction machinery conducting replacement. The Coast Guard will notify the public of the enforcement of this rule through appropriate means, which may include,

but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental

Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a safety zone on all navigable waters of the Shrewsbury River, within a 100-yard radius of the center point of the S-32 Bridge, on County Route 520 (Rumson Road) in the Boroughs of Rumson and Sea Bright, New Jersey. It is categorically excluded from further review under paragraph L60 (a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the

Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2023-0286 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 165**

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend



33 CFR part 165 as follows:

**PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS  
AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T01-0286 to read as follows:

**§ 165.T01-0286 Safety Zone; Shrewsbury River, S-32 Bridge, Boroughs of Rumson and Sea Bright, NJ.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Shrewsbury River, within a 100-yard radius of the center point of the S-32 Bridge, County Route 520 (Rumson Road) in the boroughs of Rumson and Sea Bright, New Jersey.

(b) *Definitions.* As used in this section, *Designated Representative* means a Coast Guard Officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, no person or vessel may enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port (COTP) or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF channel 16 or by phone at (718) 354-4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from September 25, 2023, through December 31, 2024, but will only be enforced during periods when heavy lift

operations at the new bridge are in progress.

Dated: May 4, 2023.

Z. Merchant,  
Captain, U.S. Coast Guard,  
Captain of the Port New York.

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